



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,919	09/27/2001	Ram Baboo Gupta	01005-00	3204

7590

06/09/2003

James A. Jubinsky, Esq.  
Cytec Industries Inc.  
1937 West Main Street  
Stamford, CT 06904-0060

EXAMINER

BALASUBRAMANIAN, VENKATARAMAN

ART UNIT

PAPER NUMBER

1624

DATE MAILED: 06/09/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/964,919

Applicant(s)

GUPTA ET AL.

Examiner

Venkataraman  
Balasubramanian

Art Unit

1624

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

mm

### ADVISORY ACTION

The response filed on 6/2/2003 under 37 CFR 1.116 in reply to the final rejection has been considered but is not deemed to place the application in condition for allowance for the following reasons.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardy et al. US 3,118,887 for reasons of record.

Applicants' argument to overcome this rejection is not persuasive. Following apply.

First of all, the declaration of Dr. Gupta is not entered and not considered as it does not meet the timeliness criteria set forth MPEP 716.01, which states "Evidence traversing rejections must be timely or seasonably filed to be entered and entitled to consideration. In re Rothermel, 276 F.2d 393, 125 USPQ 328 (CCPA 1960). In the instant case the additional data is not timely as it is filed after final rejection and does not meet the requirement of 37 CFR 1.116(b).

Secondly, contrary to Dr. Gupta's urging that the examiner is incorrect in assuming the equivalency of mono and tris(2-hydroxynaphthyl)-triazine, the teaching of Hardy clearly includes asymmetrical trisubstituted triazine as emphasized before in the previous office action and the fact that trisubstituted triazines are exemplified is more than enough for one trained in the art to make both symmetrical and asymmetrical triazine in view of the utility taught therein. Thus there is clear-cut equivalency teaching among the symmetrical triazines exemplified and those taught generically in the reference. The assertion of Dr. Gupta that the UV absorbance of the said compounds

although have the same wavelength range, differ in their extent of absorbance in the selected wave length region and therefore lack equivalency is technically incorrect.

Finally, applicants' assertion that Hardy et al. did not suggest that striking difference between the mono and tris(2-hydroxynaphthyl)-triazine and therefore one would not motivate make the mono compound is also lacks factual basis. UV absorbance or lack thereof is an inherent property of a compound. Hardy teaches use of the both symmetrical and asymmetrical compounds as UV absorbers. Thus one, trained in the art would be motivate to make both symmetrical and asymmetrical compounds and expect them to be UV absorbers.

Hence based on the factual inquiry, the rejection is still deemed as proper and is maintained.

### ***Conclusion***

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (703) 305-1674. The examiner can normally be reached on Monday through Thursday from 8.00 AM to 6.00 PM. The Supervisory Patent Examiner (SPE) of the art unit 1624 is Mukund Shah whose telephone number is (703) 308-4716. The fax phone number for the organization where this application or proceeding is assigned (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Application/Control Number: 09/964,919  
Art Unit: 1624

Page 4

VB  
V. Balasubramanian

6/6/2003

*Mukund J. Shah*  
MUKUND J. SHAH

SUPERVISORY PATENT EXAMINER

AU 1624